

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

TENTATIVE

**ORDER NO. R9-2004-0394
ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY
FOR
MANDATORY MINIMUM PENALTIES
AGAINST
THE CITY OF OCEANSIDE
OCEANSIDE OCEAN OUTFALL
VIOLATION OF
ORDER NO. 2000-11, NPDES NO. CA0107433
WASTE DISCHARGE REQUIREMENTS
FOR THE
CITY OF OCEANSIDE
SAN LUIS REY AND LA SALINA
WASTEWATER TREATMENT PLANTS
DISCHARGE TO THE PACIFIC OCEAN
VIA THE OCEANSIDE OCEAN OUTFALL**

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), on November 10, 2004, having received a signed waiver of public hearing form and a payment of \$18,000 and having reviewed the allegations contained in Complaint No. R9-2004-0298, dated September 2, 2004, and on the recommendation for administrative assessment of Civil Liability pursuant to California Water Code section 13385 in the amount of \$18,000, finds as follows:

1. The City of Oceanside is authorized to discharge up to 21 million gallons per day of wastewater through the Oceanside Ocean Outfall to the Pacific Ocean in accordance with waste discharge requirements contained in Order No. 2000-11 which was adopted by the Regional Board on February 9, 2000.
2. The Discharge Specifications' section of Order No. 2000-11 states that the maximum at any time effluent limitation for total suspended solids (TSS) discharges via the Oceanside Ocean Outfall is 50 mg/L and 6,800 lb/day. The City of Oceanside reported that TSS sampling results on October 29, 2003 were 136 mg/L and 15,700 lb/day, and 146 mg/L and 13,700 lb/day on November 5, 2003 (See Table 1, Violation Table). The City of Oceanside violated the maximum at any time concentration and mass emissions rate (MER) effluent limitations for TSS by greater than 40%.

3. The Discharge Specifications' section of Order No. 2000-11 states that the maximum at any time settleable solids effluent limitation for discharges via the Oceanside Ocean Outfall is 3.0 ml/L. The City of Oceanside reported a settleable solids sampling result on November 5, 2003 of 42 m/l/L (See Table 1, Violation Table). Therefore the City of Oceanside violated the maximum at any time effluent limitation for settleable solids by greater than 40%. Because of the sampling result on November 5, 2003, the City of Oceanside reported that the calculated weekly average (7 day) effluent limitation for settleable solids of 1.5 ml/L was exceeded on November 5, 6, 7, 10, and 11, by greater than 40%. The City also reported that based on the November 5, 2003 settleable solids sampling result, the monthly average (30 day) effluent limitation for settleable solids of 1.0 ml/L was exceeded nineteen times between November 5 and December 4, 2003, by more than 40%.

4. California Water Code section 13385(h)(2) states that a "serious violation" means any waste discharge that violates the effluent limitation contained in the applicable waste discharge requirements for a Group I pollutant by 40 percent or more or for a Group II pollutant by 20 percent or more, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations. TSS and settleable solids are Group I pollutants.

California Water Code section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation unless the discharger demonstrates that violations at a wastewater treatment plant using a biological treatment process were the result of a single operational upset.

5. The City of Oceanside has demonstrated that two consecutive mechanical failures in its biological treatment process caused a single operational upset resulting in multiple violations over a thirty-seven day period.
6. California Water Code section 13385(f)(2) states that when calculating mandatory minimum penalties, violations due to a single operational upset shall be treated as a single violation even if the operational upset results in violations of more than one effluent limitation, but in no case shall the single violation period exceed thirty days.
7. Consideration of the factors prescribed in California Water Code section 13385(e) based upon information available to the Regional Board supports assessment of civil liability pursuant to California Water Code section 13385(h) in the amount of eighteen thousand dollars (\$18,000) as documented in *Technical Analysis Supporting Administrative Civil Liability Against the City of Oceanside, Oceanside Ocean Outfall for Failure to Comply With Effluent Limitations Prescribed in Order No. 2000-11, Waste Discharge Requirements for the City of Oceanside, San Luis Rey and Las Salina Wastewater Treatment Plants, Discharge*

November 10, 2004

to the Pacific Ocean via the Oceanside Ocean Outfall, September 2, 2004.

8. The Regional Board incurred costs totaling \$5,400 to prosecute this enforcement action; the costs include investigation, preparation of enforcement documents, communicating with the Discharger, and preparation of materials for public review and hearing.
9. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) in accordance with Section 15521, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that pursuant to section 13385 of the California Water Code, civil liability is imposed on the City of Oceanside in the amount of eighteen thousand dollars (\$18,000).

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on November 10, 2004.

TENTATIVE

JOHN H. ROBERTUS
Executive Officer

Table 1. Summary of all Violations Subject to MMPs for City of Oceanside, Oceanside Ocean Outfall

Date of Violation	Violation	Permitted Limit	Reported Value	Serious/ Chronic	Water Code Section 13385	Penalty
Violations Within Single Operational Upset 30-Day Period						
10/29/03	TSS maximum at any time	50 mg/L	136 mg/L	Serious	(f)(2)(A)	\$3,000
10/29/03	TSS maximum at any time MER	6,800 lb/Day	15,700 lb/Day	Serious	(f)(2)(A)	--
11/5/03	TSS maximum at any time	50 mg/L	146 mg/L	Serious	(f)(2)(A)	--
11/5/03	TSS maximum at any time MER	6,800 lb/Day	13,700 lb/Day	Serious	(f)(2)(A)	--
11/5/03	Settleable solids maximum at any time	3.0 ml/L	42 ml/L	Serious	(f)(2)(A)	--
11/5/03	Settleable solids weekly average	1.5 ml/L	8.7 ml/L	Serious	(f)(2)(A)	--
11/6/03	Settleable solids weekly average	1.5 ml/L	8.7 ml/L	Serious	(f)(2)(A)	--
11/6/03	Settleable solids monthly average	1.0 ml/L	2.0 ml/L	Serious	(f)(2)(A)	--
11/7/03	Settleable solids weekly average	1.5 ml/L	8.5 mg/L	Serious	(f)(2)(A)	--
11/7/03	Settleable solids monthly average	1.0 ml/L	2.0 ml/L	Serious	(f)(2)(A)	--
11/10/03	Settleable solids weekly average	1.5 ml/L	8.5 ml/L	Serious	(f)(2)(A)	--
11/10/03	Settleable solids monthly average	1.0 ml/L	2.2 ml/L	Serious	(f)(2)(A)	--
11/11/03	Settleable solids weekly average	1.5 ml/L	8.6 ml/L	Serious	(f)(2)(A)	--
11/11/03	Settleable solids monthly average	1.0 ml/L	2.1 ml/L	Serious	(f)(2)(A)	--
11/12/03	Settleable solids weekly average	1.5 ml/L	2.0 ml/L	Serious	(f)(2)(A)	--
11/13/03	Settleable solids monthly average	1.0 ml/L	2.0 ml/L	Serious	(f)(2)(A)	--
11/14/03	Settleable solids monthly average	1.0 ml/L	2.0 ml/L	Serious	(f)(2)(A)	--
11/17/03	Settleable solids monthly average	1.0 ml/L	2.2 ml/L	Serious	(f)(2)(A)	--
11/18/03	Settleable solids monthly average	1.0 ml/L	2.1 ml/L	Serious	(f)(2)(A)	--
11/19/03	Settleable solids monthly average	1.0 ml/L	2.0 ml/L	Serious	(f)(2)(A)	--
11/20/03	Settleable solids monthly average	1.0 ml/L	2.1 ml/L	Serious	(f)(2)(A)	--
11/21/03	Settleable solids monthly average	1.0 ml/L	2.0 ml/L	Serious	(f)(2)(A)	--
11/24/03	Settleable solids monthly average	1.0 ml/L	2.0 ml/L	Serious	(f)(2)(A)	--
11/25/03	Settleable solids monthly average	1.0 ml/L	2.2 ml/L	Serious	(f)(2)(A)	--
11/26/03	Settleable solids monthly average	1.0 ml/L	2.1 ml/L	Serious	(f)(2)(A)	--
11/27/03	Settleable solids monthly average	1.0 ml/L	2.0 ml/L	Serious	(f)(2)(A)	--
				Serious	(h)(1)	--

Table 1. Summary of all Violations Subject to MMPs for City of Oceanside, Oceanside Ocean Outfall

Date of Violation	Violation	Permitted Limit	Reported Value	Serious/ Chronic	Water Code Section 13385	Penalty
Violations After Single Operational Upset 30-Day Period						
11/28/03	Settleable solids monthly average	1.0 ml/L	2.0 ml/L	Serious	(h)(1)	\$3,000
12/01/03	Settleable solids monthly average	1.0 ml/L	2.1 ml/L	Serious	(h)(1)	\$3,000
12/02/03	Settleable solids monthly average	1.0 ml/L	2.0 ml/L	Serious	(h)(1)	\$3,000
12/03/03	Settleable solids monthly average	1.0 ml/L	2.0 ml/L	Serious	(h)(1)	\$3,000
12/04/03	Settleable solids monthly average	1.0 ml/L	2.0 ml/L	Serious	(h)(1)	\$3,000
Total Penalty \$18,000						